
From: [REDACTED]
Sent: 7/11/2024 5:13:07 PM
To: Council Northernbeaches Mailbox
Subject: TRIMMED: DA 2024/1376 - Lot G DP 408223 7 Cooleena Road, Elanora Heights - Subdivision of one lot into two including demolition works, new driveway and carport.
Attachments: Submission to DA 2024-1376, 7 Cooleena Road Elanora Heights.pdf;

Good afternoon,

Please find attached our submission considering DA 2024/1376 – Lot G DP 408223 7 Cooleena Road, Elanora Heights – Subdivision of one lot into two including demolition works, new driveway and carport.

Kind Regards,

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7 November 2024

Northern Beaches Council

Attn.: Development Assessment Team

PO Box 82, Manly, NSW 1655

RE: DA 2024/1376 – Lot G DP 408223 7 Cooleena Road, Elanora Heights – Subdivision of one lot into two including demolition works, new driveway and carport.

Dear Sir/Madam,

We've studied the supplied documentation as well as the documents available on the Northern Beaches Council website related to the Development Application for Subdivision of one lot into two lots, and demolition works and new carport at 7 Cooleena, Road Elanora Heights, NSW 2101.

As you are probably aware there was number of applications rejected or withdrawn for the site, the last one in September 2022, all for same reasons and inconsistencies with objectives of the current controls, including Pittwater Local Environmental Plan 2014, and Pittwater 21 DCP.

After thoroughly studying the available information, we concluded, that the concerns that the reason for the rejection of the previous applications were not addressed. Apart from the minor changes to the driveway accessing the proposed subdivided back end of the property and proposal of rather massive earthworks, insensitive and risky to the existing steep terrain, all other concerns remain unresolved.

As we stated several times before, the property at 7 Cooleena Road, Elanora Heights is not suitable for "battle-axe" subdivision that the owner-developer keeps pushing for. It would result in substandard back property. Evidence for this is Geotechnical Report produced by a consultant AW Geotechnical in which a potentially structurally successful development in the lower part of the proposed subdivision is conditioned by excessive number of conditions. The subdivided portion of land at the southern end of the property shows signs of active instability - with some trees growing at 30° to the horizontal. This site is at the upper end of Hazard Zone 1 which has a likelihood of failure "Almost Certain". Climate change and recent weather events do not bring any hope, that these conditions change for ones more forthcoming to developer's desires for financial gain.

The previous application was rejected for following reasons:

The proposal fails the considerations of the Pittwater Local Environmental Plan 2014

1. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the Clause 1.2 Aims of The Plan of the Pittwater Local Environmental Plan 2014. i. Does not promote development in Pittwater that is economically, environmentally and socially sustainable, nor ensure development is consistent with the desired character of Pittwater's localities and provides for the needs of the community both now and in the future.

2. The proposal is inconsistent with the objectives of the C4 Environmental Living zone.

i. The proposed development does not provide for a low-impact residential development in the context of the ecological values of the site including its geotechnical and landscape character ii. The

subdivision development proposes to further intensify the use of the site which already consists of an existing residential dwelling and secondary dwelling. This is considered an overdevelopment and does not provide for residential development of a low density and scale integrated with the landform and landscape.

3. The proposal is inconsistent with the objectives of Part 7.7 Geotechnical Hazards PLEP 2014:

i. The site is mapped 'Geotechnical Hazard H1' on the Pittwater Geotechnical Hazard Map. The site layout and geotechnical constraints which burden Lot 2 renders much of its site area unusable, thus heavily restricting the siting of any future development on that lot as well as its ability to comply with residential built form controls.

ii. In accordance with the comments provided by Council's Development Engineer and Water Management Officer, it is not considered that the development will appropriately manage wastewater, stormwater, and drainage across the land so as not to affect the rate, volume and quality of water leaving the land.

iii. As a result of the proposal failing to meet the objectives of this clause, the development also fails to comply with Part 3.1 Landslip Hazard P21 DCP as well as the Geotechnical Risk Management Policy for Pittwater.

4. Inconsistent with Part 7.10 Essential Services PLEP 2014:

i. In accordance with comments provided by Council's Development Engineer, Council can not be satisfied that there is adequate availability of stormwater drainage.

ii. Council's Traffic Engineer notes that the turning path for Lot 1 encroaches into Lot 2, which does not result in suitable vehicular access.

The proposal is inconsistent with the Controls of the Pittwater P21 DCP

5. Inconsistent with the desired future character of the Elanora Heights Locality:

i. The indicative dwelling on Lot 2 is located over the portion of the existing allotment which currently provides the landscaped setting for the existing dwelling. Opportunities for replacement of the existing landscape setting is limited due to the topographical limitations of the rear of the site.

6. The proposal is inconsistent with the outcomes under B2.2 Subdivision - Low Density Areas P21 DCP:

i. The western side boundary of proposed Lot 2 provides a minimum depth of 24.44m, therefore failing to comply with the control requirement of 27m.

ii. The slope between the highest and lowest point of proposed Lot 2 located on the western side of the allotment is 32.73%, thus exceeding the control requirement of 30%.

iii. The control requires a minimum area of building of 175m². A gross floor area of 185.72m² is illustrated on the plans rather than a minimum building area or dwelling footprint, as is the intent of the control.

iv. It is also considered the currently proposed numerical characteristics are subject to change due to the amendments required for an inter-allotment drainage easement, right of carriageway, vehicle turning path and tree protection measures.

v. As a result of the above non-compliances, the proposal results in a built form which dominates the habitable areas of the existing and proposed allotments and exceeds the capacity of local infrastructure which is not considered to be consistent with the outcomes of the control.

7. The proposal is inconsistent with the outcomes of Section B6.2 Internal Driveways P21 DCP:

i. In accordance with comments from Council's Traffic Engineer, the vehicle turning path on Lot 1 necessitates an encroachment into Lot 2. A right of carriageway in favour of Lot 1 over this portion of

Lot 2 would therefore be required which would ultimately alter the proposed lot size and indicative dwelling plans.

ii. Council's Development Engineer also could not make comment as further details are required for the proposed right of carriageway including driveway long-sections and cross-sections as well as existing and proposed finished levels. As a result, it is not considered that safe and convenient access is maintained for the proposed development.

8. The proposal is inconsistent with the outcomes of Sections B6.3 Off-Street Vehicle Parking Requirements and B6.6 On-Street Parking Facilities

i. In accordance with comments provided by Council's Traffic Engineer, the proposal does not achieve the required number of off-street parking spaces. An existing parking space non-compliance was approved under a prior application due to hardstand parking being available along the driveway. However as the driveway is now being converted into a right of way, this parking shall no longer be available.

ii. There is limited availability of on-street parking to offset the above non-compliance and it is considered that additional vehicles resulting from the proposed development will reduce similar on-street opportunities for adjacent development sites, which does not comply with the controls of section B6.6.

9. The future indicative development is inconsistent the residential amenity controls under P21 DCP:

i. Council's Landscape Officer is not able to provide further comment due to portions of the development being located over the significant trees which are proposed for retention under the submitted Arboricultural Impact Assessment, therefore demonstrating non-compliance with section C1.1 Landscaping P21 DCP.

ii. No indicative shadow diagrams have been provided with the application and it is therefore unable to be determined whether a reasonable level of solar access shall be maintained to the naturally vulnerable allotments to the south.

iii. Due to the limited siting of the indicative dwelling on Lot 2, private open space areas of proposed and any existing adjoining dwellings are not protected from direct overlooking within 9 metres by building layout, landscaping, screening devices or greater spatial separation, as is required under C1.5 Visual Privacy P21 DCP. Due to the minimal spatial separation, a sense of territory and safety is therefore not provided for residents.

Even though several minor issues were addressed, many still remain within the current proposal. The most dangerous and riskiest part of the proposal is the insistence on dividing the land into two by battle-axe subdivision, thus creating substandard site on the southern end of the property. The owner of the property has option to develop and subdivide the land in a way that does not endanger the surrounding property or require stormwater disposal solution disturbing several neighbouring properties. It is their choice to propose essentially same proposals regularly, not to look for a compliant solution that would satisfy all LEP and DCP requirements as well as the neighbours.

Since, from the last refusal in September 2022, the controls for the subject land did not change, and the application in its current form does not comply with many of the previously mentioned non-compliances, we expect that the application DA 2024/1376 to be rejected.

Kind Regards



Igor Molitor